



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/152895

PRELIMINARY RECITALS

Pursuant to a petition filed October 17, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on December 19, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's presumptive Medicaid was correctly discontinued.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Jose Silvestre
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was eligible for Medicaid based on presumptive disability.
3. Petitioner had applied for disability based Medicaid but that application was denied by the Disability Determination Bureau (DDB).

4. When the county agency was notified of the DDB denial it notified Petitioner that he was not eligible for presumptive Medicaid and informed him that it was to be discontinued effective October 1, 2013.
5. Petitioner is under age 65 and is not blind. He is not the caretaker of a child under age 19.

DISCUSSION

To be eligible for Medical Assistance an individual must meet nonfinancial eligibility criteria that include the threshold requirement that a person be elderly, blind, or disabled. See *Medicaid Eligibility Handbook (MEH)*, § 4.1. Elderly is defined as one who is over age 65. *Id.*, §5.1. Disabled means that a person has been determined by the Disability Determination Bureau to have a disability or is receiving Social Security Supplemental Security Income (SSI) or Social Security Disability Income (SSDI). See *Medicaid Eligibility Handbook (MEH)*, §5.2.

Federal SSI law and regulations state that the SSI program can find an individual to be presumptively disabled and will be treated as a person with a disability until a final disability determination can be completed provided certain criteria are met. *MEH*, §5.9.1. Those requirements are:

When a has an urgent need for medical services attested to in writing by a medical professional, and is likely to be found disabled by DDB because of an apparent impairment, the member may be certified as presumptively disabled by the IM worker.

In determining that the applicant is presumptively disabled, the IM worker will need a “medical professional” to attest in writing that:

The individual’s circumstances constitutes an urgent need for medical services,
and

The individual has one of a certain set of impairments.
MEH, §5.9.2.

‘Urgent need’ is defined as:

1. The applicant is a patient in a hospital or other medical institution; or
2. The applicant will be admitted to a hospital or other medical institution without immediate health care treatment; or
3. The applicant is in need of long-term care and the nursing home will not admit the applicant until Medicaid benefits are in effect; or
4. The applicant is unable to return home from a nursing home unless in-home service or equipment is available and this cannot be obtained without Medicaid benefits.

MEH, §5.9.2.1.

The list of impairments is found at §5.9.2.2 of the *MEH*:

1. Amputation of a leg at the hip.
2. Allegation of total deafness.
3. Allegation of total blindness.
4. Allegation of bed confinement or immobility without a wheelchair, walker, or crutches due to a condition that’s expected to last 12 months or longer.

5. Allegation of a stroke (cerebral vascular accident) more than three months in the past and continued marked difficulty in walking or using a hand or arm.
6. Allegation of cerebral palsy, muscular dystrophy or muscle atrophy and marked difficulty in walking (e.g., use of braces), speaking, or coordination of the hands or arms.
7. Allegation of Down's syndrome.
8. Allegation of severe mental deficiency made by another individual filing on behalf of a claimant who is at least seven years of age.
9. A physician or knowledgeable hospice official (hospice coordinator, staff nurse, social worker or medical records custodian) confirms an individual is receiving hospice services because of a terminal condition, including but not limited to terminal cancer.
10. Allegation of spinal cord injury producing inability to ambulate without the use of a walker or bilateral hand-held devices for more than two weeks, with confirmation of such status from an appropriate medical professional.
11. End stage renal dialysis confirmed by a medical professional.
12. The applicant's attending physician states the applicant will be unable to work or return to normal functioning for at least 12 months or the condition will result in death within the next 12 months.
13. The member has a positive diagnosis of HIV with other serious health conditions and will be unable to work or return to normal functioning for at least 12 months or the condition will result in death within the next 12 months.

With the DDB denial of his disability based Medicaid application Petitioner no longer meets the presumptive disability eligibility criteria of 'likely to be found disabled' thus it was correctly discontinued.

I do note that it is possible that Petitioner may become eligible for BadgerCare+ in April 2014 (he should check with Milwaukee Enrollment Services), may find health care insurance through the online exchange set up in Wisconsin for the Affordable Care Act and may have a hearing in the future for his disability based Medicaid application if he requested reconsideration and that request is denied.

CONCLUSIONS OF LAW

That the agency correctly discontinued Petitioner's presumptive disability based Medicaid coverage as her application for disability based Medicaid was denied.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as

"PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

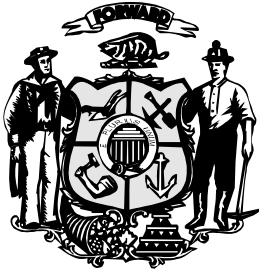
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 29th day of January, 2014

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 29, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability